IN THE HIGH COURT OF JUDICATURE AT BOMBAY

Appellate Side

Writ Petition No.7l67 of l998

Inamdar Aliyavar Gafur and anr..Petitioners
vs
The Commissioner
Nasik Mun Corpn and ors...Respondents

Mr. R.M.Agarwal with Mr G R Agarwal for petitioners

Mr.V.A.Gangal for respondent nos.l and 2

Mr.C.R.Sonawane AGP for respondent no.3

CORAM: A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 25.ll.2004

P.C:

l. By this petition under Article 226 the petitioner is seeking to quash and set aside the entire process of recruitment done by the Nasik Municipal Corporation pursuant to the advertisement dated 7.4.l998 and to issue a fresh advertisement in accordance with the bylaws of the Corporation and to fill up the vacancies purely on merits. The petitioner is also seeking an order directing the respondents to appoint the petitioner on the vacant post of Dy Engineer/ Junior Engineer/ Asst Engineer by relaxing the condition regarding age. Only few facts need to be stated in order to apprecaite the controversy raised in this petition.

2. In l998 the respondent Corporation issued an advertisement for filling up the vacancies of 35 posts of Civil Engineer and 3 post of Mechanical Engineer. The petitioner appeared for written test but was not called for the interview. Out of 35 posts of civil engineers l8 were reserved for backward class candidates and as far as posts for Mechanical Engineer are concerned one was kept reserved for backward class. The qualification for the post was B.E. or Diploma in Engineering with three years experience. It was also stipulated that candidates should have 70% marks or above in Diploma in Engineering as far as open category is concerned and 60% for reserved category. As per the terms and conditions of selection 80 marks were allotted for written test and 20 for oral interview and candidates should secure minimum 50% marks and 40% in reserved category. The written examination was held on 7.4.l998 and the results were published on the notice board on 5.7.l998. The petitioner secured 57 marks in the written examination. The Corporation s decided to shortlist the candidates in the ratio of l:3 consequently the petitioner was not called for interview. The Corporation thereafter proceeded to fil in the posts by appointing selected candidates. The petitioner is challenging the selection process mainly on the

ground that there was complete lack of transparency in the process of selection and results of written and oral examination were manipulated with a view to favour near relations and friends of the Corporators and Officers of the Corporation. At the time of admitting the petition the Division Bench has directed the Corporation to keep one post vacant.

3. Mr.Agarwal appearing for the petitioner strenuously contended that the Corporation violated the eligibility criteria by appointing candidates who did not comply with the eligible criteria thereby denying fair opportunity to the meritorious candidates like the petitioner having necessary qualifications. He contended that at least four candidates who were ineligible were selected solely due to the fact that they were near relations of the Corporators and officials of the Municipal Corporation. Mr. Agarwal urged that these four candidates were less meritorious than the petitioner. This has resulted in denial of employment to the petitioner. We find absolutely no substance in the contentions of Mr. Agarwal. As far as the candidate Anil Narasinghe is concerned according to Mr. Agarwal he is the nephew of Chief Engineer Mr. Khune’s friend and Ex

Government Contractor of the Corporation. He submitted that the said candidate did not even possesses necessary qualification. This submission is totally incorrect. The candidate has passed B.E.examination with 60% marks and he was clearly eligible for the said post. Similarly Prashant Pagar and Milind Digambar hold B.E.Degree with First Class and the contention that they were not qualified is baseless. As far as the last candidate Trimbak Daftare is concerned Mr. Agarwal submitted that the rules require minimum three years experience whereas the said candidate had only one and half years experience. Mr. Gangal for the Corporation has, however, pointed out that this issue is not even raised in the petition. Mr. Gangal submitted that the said candidate has passed B.E.with First Class and is eligible for the post. Apart from the fact that no such plea is raised in the petition the concerned cadidate is not even impleaded in the petition. In any event it is pointed out by Mr.Gangal that the petitioner himself was not qualified as per the advertisement as he has secured less than 60% marks. No other point was raised by Mr. Agarwal. In our opinion, this is not a fit case for exercise of powers under Art 226 of the Constitution. Petition is accordingly dismissed with costs.